



The Comptroller General
of the United States

Washington, D.C. 20548

133495

Decision

Matter of: D. Moody & Co., Inc.

File: B-227596

Date: July 20, 1987

DIGEST

Protest that quote was improperly rejected as technically unacceptable filed more than 1 year after contract award is dismissed as untimely because the protester failed to diligently pursue the information that formed the basis of its protest.

DECISION

D. Moody & Co., Inc., protests the rejection of its low quote under request for quotations (RFQ) No. 86-Q-C-774, issued by the Defense Logistics Agency, Defense Construction Supply Center (DCSC), Columbus, Ohio, for strainer elements. DCSC determined that the quote was technically unacceptable because D. Moody was offering commercial surplus material. We dismiss the protest as untimely.

The RFQ contained the standard quotation acceptance clause that quotes remain open for 60 days unless otherwise specified. The RFQ closing date was on April 9, 1986. DCSC awarded the contract to Borg Warner on June 27, 1986.

D. Moody states that it learned that the contract was awarded to Borg Warner at a higher price than it quoted on March 25, 1987, and that it sent a letter on this date, which subsequently was sent two more times, to ascertain DCSC's reason for awarding at a higher price. D. Moody states that it did not receive an answer to its letter, until June 15, 1987, advising that its quote had been determined to be technically unacceptable. D. Moody protested the rejection of its low quote by letter, received in our Office on June 29, 1987.

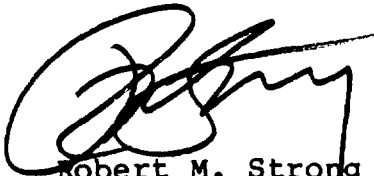
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To be timely, a protest must be received in our Office within 10 working days after the basis of protest was known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1986). Further, the protester must have diligently pursued the information forming the basis for the protest. If the protester failed to do so within a reasonable time, we will dismiss the ultimately-filed protest as untimely. Electro-Methods, Inc., B-218180, Mar. 4, 1985, 85-1 C.P.D. ¶ 272.

Here, the RFQ was issued pursuant to small purchase procedures, which did not require the agency to notify quoters of the results of the RFQ. We note, however, that D. Moody submitted a self-addressed reply card with its offer in which it requested to receive the results of the RFQ. In response to our informal inquiry, the agency advised that D. Moody was telephonically notified on May 12, 1986, that its quote was considered to be technically unacceptable and that a post card notifying it of the award was sent.

We find that even if we assume that D. Moody was never notified of the disposition of its quotation and the award, the protest must be considered untimely because D. Moody failed to diligently pursue the information forming the basis of the protest. D. Moody should have inquired about the status of its quote shortly after the expiration of the quote acceptance period. While D. Moody does not state how it discovered that award was made to Borg Warner or when it attempted to determine this information, we find that waiting more than a year after the award before it filed a protest is well beyond the reasonable period for diligently pursuing the information forming the basis of a protest required to meet the timeliness requirements of our regulations.

The protest is dismissed.



Robert M. Strong
Deputy Associate
General Counsel